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999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

RAD REFERRAL: 08L-24
DATE REFERRED: June 6, 2008
DATE ACTIVATED: June 12, 2008

**EXPIRATION OF STATUTE OF
LIMITATIONS:** June 5, 2011

RESPONDENTS:

**MN-06 Congressional Victory Committee and
Christopher Ward, in his official capacity as
treasurer**
**IA-01 Congressional Victory Committee and
Christopher Ward, in his official capacity as
treasurer**
**NY-24 Congressional Victory Committee and
Christopher Ward, in his official capacity as
treasurer**
**Bachmann for Congress and Jonathan F. Graham, in
his official capacity as treasurer**

RELEVANT STATUTES:

2 U.S.C. § 432(b)
2 U.S.C. § 432(c)
2 U.S.C. § 432(e)
2 U.S.C. § 433(c)
2 U.S.C. § 434(a)
2 U.S.C. § 434(b)
2 U.S.C. § 437f(c)
2 U.S.C. § 441a(a)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

On June 6, 2008, the Reports Analysis Division ("RAD") referred to the Office of the General Counsel three committees: the MN-06 Congressional Victory Committee ("MN-06 CVC"); the IA-01 Congressional Victory Committee ("IA-01 CVC"); and the NY-24 Congressional Victory Committee ("NY-24 CVC") (collectively, the "Victory

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1 Committees”), for making apparently excessive contributions in violation of the Federal
2 Election Campaign Act of 1971, as amended (“the Act”) to federal candidates totaling
3 \$166,900, \$131,900 and \$107,400, respectively, during the 2006 election cycle.
4 Pursuant to the Commission’s *Procedure for Notice to Respondents in Non-Complaint*
5 *Generated Matters*, 74 Fed. Reg. 38617 (August 4, 2009), we provided notification of
6 RAD Referral 08L-24 to counsel for Christopher Ward, the treasurer of the Victory
7 Committees, on August 7, 2009, and did not receive a response.

8 Only one of the candidate committees that received potentially excessive
9 contributions made by the Victory Committees is still active, Bachmann for Congress
10 (“BFC”), which is the principal campaign committee of Michele Bachmann and which
11 received funds from MN-06 CVC. Michele Bachmann won the 2006 general election
12 and is the U.S. Representative for Minnesota’s 6th Congressional district. We notified
13 BFC of its potential receipt of excessive contributions from MN-06 CVC to allow BFC to
14 submit a response, which it has done. *See* Attachment 1.

15 IA-01 CVC transferred funds to Whalen for Congress, the principal campaign
16 committee for Michael Whalen. Whalen lost the general election and the Commission
17 approved the termination of Whalen for Congress on October 31, 2007. NY-24 CVC
18 transferred funds to Ray Meier for Congress, the principal campaign committee for

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1 Raymond Meier. Meier lost the general election and the Commission approved the
2 termination of Ray Meier for Congress on October 23, 2007.

3 **II. OVERVIEW OF VICTORY COMMITTEES' ACTIVITY AND OUR**
4 **RECOMMENDATIONS**

5
6 In the 2006 election cycle, MN-06 CVC transferred a total of \$134,000 to BFC;
7 IA-01 CVC transferred a total of \$169,000 to Whalen For Congress ("WFC"); and NY-
8 24 CVC transferred a total of \$109,500 to Ray Meier for Congress ("MFC"). Nearly all
9 of the funds transferred from the Victory Committees to the candidate committees were
10 proceeds of joint fundraising activity in which the Victory Committees were
11 participating. The joint fundraising proceeds were disbursed to the Victory Committees
12 by joint fundraising representative committees established for that purpose. More
13 specifically, the 2005 Joint Candidate Committee was a joint fundraising representative
14 committee that transferred contributions to IA-01 CVC; the 2006 Joint Candidate
15 Committee was a joint fundraising representative committee that transferred
16 contributions to all three Victory Committees; and Midwest ROMP was a joint
17 fundraising representative committee that transferred contributions to MN-06 CVC and
18 IA-01 CVC. All three of these joint fundraising representative committees have since
19 terminated. In view of the number of committees involved in these transactions and the
20 number of transactions, we have prepared diagrams illustrating the relevant transactions
21 for each of the committees. See Attachments 2-5.

22 Because MN-06 CVC transferred \$115,000 to BFC before it became an
23 authorized committee of BFC, we recommend that the Commission find reason to believe
24 that MN-06 CVC and its treasurer made an excessive contribution to BFC in violation of
25 2 U.S.C. § 441a(a). MN-06 CVC also inaccurately disclosed its pre-authorization

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1 \$115,000 transfer to BFC as a transfer to an affiliated committee and failed to itemize
2 contributions it received from the 2006 Joint Candidate Committee and, therefore, we
3 recommend that the Commission find reason to believe that MN-06 CVC and its
4 treasurer violated 2 U.S.C. § 434(b). Additionally, MN-06 CVC failed to timely amend
5 its Statement of Organization to disclose its affiliation with BFC after being designated as
6 an authorized Bachmann committee, and, accordingly, we recommend that the
7 Commission find reason to believe that MN-06 CVC and its treasurer violated 2 U.S.C.
8 § 433(c). Furthermore, MN-06 CVC failed to change its name to include Bachmann's
9 name after Bachmann designated MN-06 CVC as an authorized Bachmann committee
10 and, therefore, we recommend that the Commission find reason to believe that MN-06
11 CVC and its treasurer violated 2 U.S.C. § 432(e).

12 Additionally, because IA-01 CVC transferred \$53,000 to WFC before Michael
13 Whalen designated IA-01 CVC as an authorized committee, we recommend that the
14 Commission find reason to believe that IA-01 CVC and its treasurer made an excessive
15 contribution in violation of 2 U.S.C. § 441a(a). IA-01 CVC also inaccurately disclosed
16 its \$53,000 in pre-authorization transfers to WFC as transfers to an affiliated committee
17 and, therefore, we recommend that the Commission find reason to believe that IA-01
18 CVC and its treasurer violated 2 U.S.C. § 434(b). Moreover, IA-01 CVC failed to
19 change its name to include Whalen's name after Whalen designated IA-01 CVC as an
20 authorized Whalen committee, and, consequently, we recommend that the Commission
21 find reason to believe that IA-01 CVC and its treasurer violated 2 U.S.C. § 432(e).

22 NY-24 CVC failed to change its name to include Raymond Meier's name after
23 Raymond Meier designated NY-24 CVC as an authorized Meier committee, and, as a

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1 result, we recommend that the Commission find reason to believe that NY-24 CVC and
2 its treasurer violated 2 U.S.C. § 432(e).

3 The Victory Committees' failures to comply with the requirements of the Act
4 made the connection between the candidates and the Victory Committees largely
5 unknown to the public. This, in turn, made it difficult for the public to identify the
6 sources of significant contributions to these candidates. We therefore recommend that
7 the Commission enter into pre-probable cause conciliation with the Victory Committees
8 and approve the attached conciliation agreements.

9 Finally, we make no recommendation as to Bachmann for Congress because BFC
10 disclosed receiving the \$115,000 transfer from MN-06 CVC after the date on which
11 Michele Bachmann designated MN-06 CVC as an authorized committee. Because
12 Whalen for Congress and Meier for Congress have terminated, we make no
13 recommendations regarding them.

14 **III. FACTUAL AND LEGAL ANALYSIS**

15 **A. MN-06 Congressional Victory Committee and Bachmann for Congress**

16
17 By May 6, 2006, Michele Bachmann was the sole Republican Party candidate in
18 the 2006 election seeking to represent Minnesota's 6th Congressional District.²
19 Bachmann remained the only candidate when the filing deadline for the primary expired

² All GOP candidates competing for their party's nomination in Minnesota's 6th Congressional district, including Bachmann, pledged to support the candidate who won the endorsement of a district-wide convention held on May 6, 2006. Bachmann won the convention's endorsement and the other candidates honored their pledges to not compete in the primary. See Gizzi, John, MN-06: *Bachmann vs. Wetterling* (July 17, 2006) found at www.humanevents.com; see also Pugmire, Tim, *Bachmann Wins GOP Endorsement for U.S. House in 6th* (May 6, 2006) found at <http://minnesota.publicradio.org/display/web/2006/05/06/6dist/>.

on July 18, 2006, and Bachmann formally won the GOP primary on September 12, 2006.

Michele Bachmann subsequently won the general election on November 7, 2006.

Both before and after Bachmann's primary victory, MN-06 CVC received proceeds from Midwest ROMP and the 2006 Joint Candidate Committee and eventually transferred the funds to Bachmann's principal campaign committee, BFC. From Midwest ROMP, MN-06 CVC received \$12,596.44 on June 29, 2006 and \$2,021.08 on September 30, 2006. From the 2006 Joint Candidate Committee, MN-06 CVC received \$89,725.17 on October 18, 2006. *See* Attachments 2 and 3.

1. Apparent MN-06 CVC Violations

a. *Excessive Contributions*

MN-06 CVC disclosed that it had transferred \$115,000 to BFC on October 18, 2006. *See* MN-06 CVC's 2006 12-Day Pre General Election Report. The Act prohibits any person from making or knowingly accepting contributions in excess of the Act's contribution limits. *See* 2 U.S.C. §§ 441a(a) and 441a(f). In the 2006 election cycle, political committees which did not have multicandidate status, such as the CVCs, could contribute only \$2,100 to a candidate and his or her authorized committee per election. *See* 2 U.S.C. § 441a(a)(1)(A).

i. *Advisory Opinion 1977-16 Is Inapplicable to the Activity*

Because the transfers from the Victory Committees to their respective candidates appeared to be excessive contributions, RAD sent Requests for Additional Information to Christopher Ward, treasurer of all three Victory Committees. In response, Ward asserted that the Victory Committees were established and operated consistent with Advisory Opinion 1977-16 (Iowa 1980 U.S. Senate Campaign Committee) ("AO 1977-16"). *See*

1 May 22, 2007 FEC Form 99s filed by Ward on behalf of each Victory Committee. In
2 response to our notification letter to BFC regarding its receipt of potentially excessive
3 contributions from MN-06 CVC, BFC cited MN-06 CVC's claimed reliance on AO
4 1977-16. *See* Attachment 1. However, as discussed below, the respondents' transactions
5 do not appear to be consistent with AO 1977-16.

6 In AO 1977-16, the Commission permitted a candidate search committee to
7 gather contributions as if it were the principal campaign committee of the future
8 (unidentified) 1980 Iowa Republican Senate candidate so long as the search committee
9 then became the principal campaign committee of the candidate it selected. The
10 Commission expressly declined to render an opinion as to the consequences if the
11 candidate selected by the search committee refused to adopt the search committee as her
12 principal campaign committee. Moreover, the Commission's approval of the search
13 committee's proposal in AO 1977-16 was explicitly premised on the search committee
14 not transferring its funds to another committee.

15 In this case, the Victory Committees and BFC cannot rely on AO 1977-16.
16 Advisory opinions may only be relied upon by "any person involved in any specific
17 transaction or activity which is indistinguishable in all its material aspects from the
18 transaction or activity" addressed by the advisory opinion. 2 U.S.C. § 437f(c)(1).
19 Furthermore, a person entitled to rely on an advisory opinion must act in good faith in
20 accordance with the advisory opinion to avoid liability for violating the Act. *See*
21 2 U.S.C. § 437f(c)(2). In this case, the transactions and activities of the Victory
22 Committees are materially different from the transactions and activity addressed by AO

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1 1977-16. Further, the Victory Committees as well as the candidates that accepted
2 contributions through them did not act in accordance with AO 1977-16.

3 For example, we have no information indicating that the Victory Committees
4 acted as candidate search committees, as was the requesting committee in AO 1977-16.
5 Indeed, it appears that the Victory Committees merely transferred their contributions to
6 the winners of the Republican primaries in their respective districts, each of whom
7 already had established and operating principal campaign committees. It is, therefore,
8 unclear to what extent, if any, the Victory Committees were "searching" for a candidate
9 or operating in order to establish a principal campaign committee for a future candidate.
10 Additionally, the candidates did not adopt the Victory Committees as their principal
11 campaign committees, as expected of the requesting committee in AO 1977-16. Finally,
12 even though AO 1977-16 was based on there being no transfer of funds from the search
13 committee to another committee because the search committee would become the
14 candidate's principal campaign committee, there was such a transfer of funds from the
15 Victory Committees to the candidate committees in this case. See AO 1977-16. As a
16 result, there is no information suggesting that the Victory Committees made the decision,
17 as search committees, to select the recipients of their contributions.

18 Therefore, because the Victory Committees' transactions and activity materially
19 differed from the transactions and activity addressed by AO 1977-16, and the Victory
20 Committees did not act in accordance with AO 1977-16, they cannot rely on
21 AO 1977-16.

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ii. The Transfers Cannot Be Considered Allocations of
Joint Fundraising Activity

In its Response, BFC also asserted that the transfers from MN-06 CVC to BFC were not excessive contributions because they were allocations of joint fundraising activity. *See* Response at 1. While the joint fundraising regulations do not supersede the Act's contribution limits, *see* 11 C.F.R. § 102.17(a), committees participating in joint fundraising may transfer the proceeds of the joint fundraiser to one another in accordance with their allocated share of the proceeds from the joint fundraiser. *See* 11 C.F.R. § 102.6(a)(1)(iii). In this case, MN-06 CVC was a participating committee in joint fundraising activities for which Midwest ROMP and the 2006 Joint Candidate Committee were the representative committees.³ BFC, however, was not a participating committee in the joint fundraisers for which Midwest ROMP and the 2006 Joint Candidate Committee were the representative committees. Therefore, BFC was not permitted to receive unlimited transfers of joint fundraising proceeds (from Midwest ROMP, the 2006 Joint Candidate Committee, or MN-06 CVC) pursuant to 11 C.F.R. § 102.6(a)(1)(iii).

iii. Earmarking Distinguished

The Victory Committees and BFC asserted that the Victory Committees were established and operated in accordance with AO 1977-16, which addresses the activities of a proposed candidate search committee. The activities of the Victory Committees, however, may have been an attempt to solicit, accumulate, and transfer earmarked contributions on behalf of future (unidentified) candidates. The Commission has

³ *See* MN-06 CVC April 10, 2006 Amended Statement of Organization (disclosing Midwest ROMP as an affiliated joint fundraising [representative] committee); MN-06 CVC May 5, 2006 Amended Statement of Organization (disclosing the 2006 Joint Candidate Committee as an affiliated joint fundraising committee); Midwest ROMP April 3, 2006 Statement of Organization (disclosing MN-06 CVC as an affiliated joint fundraising participant committee); 2006 Joint Candidate Committee April 26, 2006 Statement of Organization (disclosing MN-06 CVC as an affiliated joint fundraising participant committee).

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1 permitted such activity in accordance with the Commission's earmarking regulations,
2 found at 11 C.F.R. § 110.6, so long as the earmarked contribution solicitations indicate
3 the future candidate's party, office sought, and election. *See* AO 2003-23 (WE LEAD).
4 Additionally, once the candidate is identified, the committee possessing the earmarked
5 contributions (the "conduit" or "intermediary") must forward the earmarked
6 contributions, and the itemized contributor information, to the candidate within 10 days.
7 *Id.*

8 Search committees and conduit/intermediaries engage in fundamentally different
9 activities. In the case of a search committee, the committee selects the candidate who
10 will receive its contributions, the candidate adopts the search committee as their principal
11 campaign committee, and the search committee does not transfer its contributions to
12 another committee. As for conduits/intermediaries, the conduit/intermediary may not
13 exercise any "direction or control over the choice of the recipient committee" and the
14 conduit/intermediary must transfer its earmarked contributions to the candidate's
15 committee. *Compare* AO 1977-16 with 11 C.F.R. § 110.6(d). For contributions
16 earmarked for a future candidate, the political party identifies the candidate entitled to the
17 earmarked contributions.

18 Neither the Victory Committees nor Bachmann for Congress have claimed that
19 the Victory Committees were the conduits/intermediaries for earmarked contributions but
20 rather have claimed that the Victory Committees were acting as search committees in
21 accordance with AO 1977-16. Even if the Victory Committees were
22 conduits/intermediaries handling earmarked contributions, their activities appear to have
23 violated the Act. For example, IA-01 CVC and MN-06 CVC did not transfer their

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1 accumulated contributions to their respective candidates within 10 days of those
2 candidates being identified. *See* 11 C.F.R. §§ 102.8(a) and 110.6(b)(2)(iii); AO 2003-23.
3 Furthermore, there is no provision in the regulations allowing a conduit, or the treasurer
4 of a conduit, to pay themselves using the earmarked contributions, as Ward appears to
5 have done.

6 iv. Conclusion As To Excessive Contributions

7 It appears that Bachmann for Congress did not knowingly receive an excessive
8 contribution because the amended Form 1 filed by Bachman for Congress that designated
9 MN-06 CVC as an authorized *Bachmann* committee was dated October 19, 2006 and
10 BFC disclosed receiving the \$115,000 from MN-06 CVC on October 20, 2006.
11 Accordingly, at the time the \$115,000 was received, MN-06 CVC was an authorized
12 committee, and the Act permits unlimited transfers between authorized committees. *See*
13 11 C.F.R. § 102.6(a)(1). Accordingly, we make no recommendation as to Bachmann For
14 Congress and Jonathan F. Graham, in his official capacity as treasurer.

15 Nevertheless, when MN-06 CVC made the \$115,000 transfer on October 18,
16 2006, it was not yet an authorized committee of Bachmann. Therefore, the transfer
17 constituted an excessive contribution from MN-06 CVC to BFC. Accordingly, we
18 recommend that the Commission find reason to believe that MN-06 Congressional
19 Victory Committee and Christopher Ward, in his official capacity as treasurer, may have
20 made an excessive contribution in violation of 2 U.S.C. § 441a(a).

21 b. *Failure to Accurately and Completely Disclose*
22 *Transactions*
23

24 Any political committee other than an authorized committee must report its
25 contributions to other political committees. *See* 2 U.S.C. § 434(b)(4)(H)(i). An

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1 authorized committee must report all transfers to other committees authorized by the
2 same candidate in the relevant reporting period. *See* 2 U.S.C. § 434(b)(4)(B).

3 MN-06 CVC disclosed its \$115,000 disbursement to BFC as a transfer to an
4 affiliated committee. However, MN-06 CVC disclosed that the date of the transfer was
5 October 18, 2006 which is before Michele Bachmann authorized MN-06 CVC. Thus,
6 MN-06 CVC transferred the \$115,000 before being authorized by Bachmann.
7 Consequently, we recommend that the Commission find reason to believe that MN-06
8 Congressional Victory Committee and Christopher Ward, in his official capacity as
9 treasurer, violated 2 U.S.C. § 434(b) by misreporting the \$115,000 transfer as one made
10 to an affiliated committee.

11 Moreover, MN-06 CVC received \$89,725.17 in contributions from the 2006 Joint
12 Candidate Committee (a joint fundraising representative committee) on October 18,
13 2006. Each participating committee in a joint fundraiser must file a memo Schedule A
14 itemizing its share of gross fundraising receipts as contributions from the original
15 contributors to the extent required by 11 C.F.R. § 104.3(a). *See* 11 C.F.R.
16 § 102.17(c)(8)(i)(B). Although MN-06 CVC disclosed receiving its share of jointly
17 raised contributions through the 2006 Joint Candidate Committee before the election, it
18 did not itemize the contributor information until July 15, 2007 -- after receiving inquiries
19 from RAD -- which was nearly nine months late and long after the election. Thus, we
20 recommend that the Commission find reason to believe that MN-06 Congressional
21 Victory Committee and Christopher Ward, in his official capacity as treasurer, violated
22 2 U.S.C. § 434(b) by failing to timely itemize contributions received through the 2006
23 Joint Candidate Committee.

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c. Failure to Timely Amend Statement of Organization

Committees must report any changes to their Statements of Organization, which includes disclosing newly-affiliated committees, within 10 days after the date of the change. *See* 2 U.S.C. § 433(c). As noted above, Bachmann's amended Form 1 designating MN-06 CVC as an authorized committee was dated October 19, 2006 and filed with the Commission on October 26, 2006. MN-06 CVC, however, did not amend its Statement of Organization to indicate Bachmann's authorization until after the election, on November 14, 2006. Accordingly, we recommend that the Commission find reason to believe that MN-06 Congressional Victory Committee and Christopher Ward, in his official capacity as treasurer, violated 2 U.S.C. § 433(c) by failing to timely amend its Statement of Organization.

d. Failure to Change Name After Authorization

Additionally, authorized candidate committees must include the name of their candidate in the committee's name. *See* 2 U.S.C. § 432(e)(4). After Michele Bachmann authorized MN-06 CVC, the committee never changed its name to include Bachmann's name. Consequently, we recommend that the Commission find reason to believe that MN-06 Congressional Victory Committee and Christopher Ward, in his official capacity as treasurer, violated 2 U.S.C. § 432(e) by failing to change the committee's name upon becoming an authorized committee of the Bachmann campaign.

2. November 6, 2006 Transfer Not an Excessive Contribution

On November 3, 2006, MN-06 CVC received \$20,453.68 from the 2006 Joint Candidate Committee, and made its final transfer \$19,000 to BFC on November 6, 2006. As discussed above, respondents' actions do not appear to be consistent with AO 1977-

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1 16. However, this transfer does not appear to be an excessive contribution. The available
2 information suggests that the contributions made to the joint fundraising committees that
3 were transferred to the candidates through the Victory Committees were intended for
4 those candidates as the winners of their party's primaries in their respective
5 Congressional districts, no discretion was exercised by the Victory Committees as to the
6 recipients of their funds, and there were no conditions attached to the transfer of the
7 funds. Under these circumstances, we conclude that because Bachmann had designated
8 MN-06 CVC as an authorized committee before MN-06 CVC received these
9 contributions and there is no limit on the transfers of funds between authorized
10 committees of a campaign. *See* 11 C.F.R. § 102.6(a)(1).

11 **B. IA-01 Congressional Victory Committee and Whalen for Congress**

12 On June 6, 2006, Michael Whalen won a contested Republican Party primary
13 election to become the GOP candidate for Iowa's 1st Congressional District. Whalen was
14 defeated in the general election, and WFC's request for termination was approved on
15 October 31, 2007.

16 IA-01 CVC is a political committee that primarily participated in joint fundraising
17 efforts and transferred the contributions it accumulated to WFC. IA-01 CVC received
18 contributions from joint fundraising representative committees both before and after
19 Whalen's primary victory, and both before and after Whalen authorized IA-01 CVC. *See*
20 Attachments 2 and 4.

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1 1. Apparent Violations

2 a. *Excessive Contribution*

3 On July 19, 2006, WFC filed with the Commission an amended Form 1 indicating
4 that candidate Whalen had designated IA-01 CVC as an authorized campaign committee.
5 Before WFC authorized IA-01 CVC, the latter had already accumulated \$40,792.29 in
6 contributions disbursed through the 2005 Joint Candidate Committee and Midwest
7 ROMP, and had already transferred \$53,000 to WFC in two portions: \$36,500 on
8 June 27, 2006 and \$16,500 on June 30, 2006. As discussed above in Section III.A, the
9 Victory Committees' assertion that their activity was permitted pursuant to AO 1977-16
10 is unpersuasive and the \$53,000 in pre-authorization transfers appear to exceed IA-01
11 CVC's \$2,100 contribution limit.

12 Consequently, the \$36,500 transfer from IA-01 CVC to WFC on June 27, 2006
13 and the \$16,500 transfer from IA-01 CVC to WFC on June 30, 2006 constituted
14 excessive contributions from IA-01 CVC to WFC totaling \$50,900. Accordingly, we
15 recommend that the Commission find reason to believe that IA-01 Congressional Victory
16 Committee and Christopher Ward, in his official capacity as treasurer, may have made
17 excessive contributions in violation of 2 U.S.C. § 441a(a).

18 b. *Misreporting Contributions as Transfers*

19 Any political committee other than an authorized committee must report its
20 contributions to other political committees. *See* 2 U.S.C. § 434(b)(4)(H)(i). An
21 authorized committee must report all transfers to other committees authorized by the
22 same candidate in the relevant reporting period. *See* 2 U.S.C. § 434(b)(4)(B). IA-01
23 CVC disclosed its \$53,000 in pre-authorization disbursements to WFC as transfers to an

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1 affiliated committee. However, IA-01 CVC disclosed that the dates of the disbursements
2 were June 27 and June 30, 2006, which were before Michael Whalen authorized IA-01
3 CVC. Thus, IA-01 CVC contributed \$53,000 to WFC before being authorized by
4 Whalen. Consequently, we recommend that the Commission find reason to believe that
5 IA-01 Congressional Victory Committee and Christopher Ward, in his official capacity as
6 treasurer, violated 2 U.S.C. § 434(b) by misreporting the \$53,000 in pre-authorization
7 contributions as transfers made to an affiliated committee.

8 *c. Failure to Change Name After Authorization*

9 WFC filed an amended Form 1 and an amended Form 2 designating IA-01 CVC
10 as an authorized Whalen committee on July 19, 2006. Upon authorization by Whalen,
11 IA-01 CVC should have amended its name to include Whalen's name but did not do so.
12 See 2 U.S.C. § 432(e)(4). Accordingly, we recommend that the Commission find reason
13 to believe that IA-01 Congressional Victory Committee and Christopher Ward, in his
14 official capacity as treasurer, violated 2 U.S.C. § 432(e).

15 2. Post-Authorization Transfers Not Excessive Contributions

16
17 Whalen authorized IA-01 CVC on July 19, 2006 and subsequently made transfers
18 totaling \$116,000. These transfers do not appear to be excessive contributions. As noted
19 above regarding MN-06 CVC, the available information suggests that the contributions
20 were intended for the candidates, the CVCs transferred the funds without condition, and
21 the CVCs did not exercise any discretion. Under these circumstances, we conclude that
22 because Whalen had designated IA-01 CVC as an authorized committee before IA-01
23 CVC received these contributions and there is no limit on the transfers of funds between
24 authorized committees of a campaign. See 11 C.F.R. § 102.6(a)(1).

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C. NY-24 Congressional Victory Committee and Ray Meier For Congress

By June 2, 2006, Raymond Meier was identified as the sole Republican Party candidate seeking to represent New York's 24th Congressional District in the 2006 election.⁴ Meier remained the only candidate when the filing deadline for the primary election expired on July 13, 2006 and, without an opponent, Meier formally won the GOP primary on September 12, 2006. Meier lost the general election on November 7, 2006, and MFC's request for termination was approved on October 23, 2007.

On October 15, 2006, Meier filed an amended Form 2 designating NY-24 CVC as an authorized committee of his campaign. On October 18, 2006, NY-24 CVC received \$95,584.80 from a joint fundraising representative committee, the 2006 Joint Candidate Committee, and that same day NY-24 CVC transferred \$92,500 to MFC. NY-24 CVC received an additional \$17,785.91 from the 2006 Joint Candidate Committee on November 3, 2006, and transferred \$17,000 to MFC on November 6, 2006. See Attachments 2 and 5.⁵

I. Failure to Change Name Following Authorization

Meier authorized NY-24 CVC on October 15, 2006, but NY-24 CVC failed to change its name to include Meier's name as required by 2 U.S.C. § 432(e)(4). Accordingly, we recommend that the Commission find reason to believe that NY-24

⁴ According to one report, Raymond Meier's only remaining potential opponent in the GOP primary withdrew from the primary and endorsed Meier. Behind Liberal Lines, *Jones Out of (NY) Congressional Race – Endorses Meier* (June 2, 2006) found at www.freerepublic.com/focus/f-news/1642241/posts.

⁵ Although MFC eventually disclosed the itemized contributions it received from NY-24 CVC, it failed to disclose the transfer from NY-24 CVC itself, as required by 2 U.S.C. § 434(b).

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1 Congressional Victory Committee and Christopher Ward, in his official capacity as
2 treasurer, violated 2 U.S.C. § 432(e).

3 2. Post-Authorization Transfers Not An Excessive Contribution

4 NY-24 CVC received all funds from the joint fundraising committees after Meier
5 authorized NY-24 CVC and subsequently transferred the funds to MFC. These transfers
6 do not appear to be excessive contributions. As noted above regarding MN-06 CVC and
7 IA-01 CVC, the available information suggests that the contributions were intended for
8 the candidates, the CVCs transferred the funds without condition, and the CVCs did not
9 exercise any discretion. Under these circumstances, we conclude that because Meier had
10 designated NY-24 CVC as an authorized committee before NY-24 CVC received these
11 contributions and there is no limit on the transfers of funds between authorized
12 committees of a campaign. *See* 11 C.F.R. § 102.6(a)(1).

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14 We believe that an investigation is not required to establish the violations
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5 **V. RECOMMENDATIONS**

6 1. Open a MUR.

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8 2. Find reason to believe that MN-06 Congressional Victory Committee and
9 Christopher Ward, in his official capacity as treasurer, violated 2 U.S.C.
10 §§ 441a(a), 434(b), 433(c), and 432(e).

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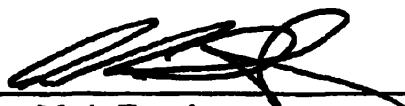
3.

4. Find reason to believe that IA-01 Congressional Victory Committee and Christopher Ward, in his official capacity as treasurer, violated 2 U.S.C. §§ 441a(a), 434(b), and 432(e).
- 5.
6. Find reason to believe that NY-24 Congressional Victory Committee and Christopher Ward, in his official capacity as treasurer, violated 2 U.S.C. § 432(e).
- 7.
8. Approve the attached Factual and Legal Analyses.
- 9.
10. Approve the appropriate letters.


Thomasenia P. Duncan
General Counsel

Date: 10/19/09

BY:


Ann Marie Terzaken
Associate General Counsel for
Enforcement


Mark R. Allen
Acting Assistant General Counsel


Michael A. Columbo
Attorney

Attachments:

1. Bachmann for Congress Response

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